FILED
OCT 26 1984
ALEXANDER L. STEVAS, CLERK

No. 83-2163

IN THE
SUPREME COURT OF THE UNITED STATES
October Term, 1984

GARTER-BARE COMPANY, a limited partnership, and KNUT L. BJORN-LARSEN,

Petitioners,

vs.

MUNSINGWEAR, INC., a Corporation,

Defendant and Respondent.

APPLICATION FOR SUMMARY RULING ON PETITION FOR A WRIT OF CERTIORARI GRANTING PETITION, VACATING THE JUDGMENTS BELOW AND REMANDING WITH INSTRUCTIONS TO DISMISS AS MOOT
to the United States Court of Appeals
for the Ninth Circuit

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The Petitioners, GARTER-BARE COMPANY ("Garter-Bare") and KNUT L. BJORN-LARSEN ("Larsen"), plaintiffs-appellants below, request that this Honorable Court grant Petitioners' Petition for Writ of Certiorari now pending before this Court to vacate the judgments below, and to remand with instructions to dismiss as moot, and in

support of this application state:

1. A settlement of this 12-year-old litigation has been achieved by the parties, and definitive settlement documents have been executed.

2. One of the contemplated parts of said settlement is the hope by Petitioners that they will be able to salvage their patent, the correctness of the lower courts' rulings on the validity of which was an issue raised in their Petition for Certiorari.

3. In the interests of justice, and in furtherance of the express suggestions of the lower courts that the parties endeavor to settle, and in order to enable Petitioners to try to obtain all of the benefits of said settlement, Petitioners petition this Honorable Court to summarily grant certiorari, vacate the judgments below, and remand with instructions to dismiss for mootness.

4. If this Application is granted, Petitioners represent that they expect to be able to obtain Congressional enactment of special legislation concerning said patent and a similar patent obtained by Respondent and later dedicated by Respondent to the public during the course of said litigation, the effect of which enactment will be to preserve the rights of the parties without injury to the public interest;

5. Considerations of public policy, promotion of amicable settlement of litigation and protection of the rights of Petitioners, while preserving for other litigants the right to have the constitutional issues raised in Petitioners' Petition for Certiorari determined in other appropriate litigation, support the granting of the relief sought herein.

WHEREFORE, Petitioners respectfully pray that this Honorable Court grant the

pending Petition for Certiorari, vacate the judgments below, and remand with instructions to dismiss for mootness, and for such other relief as is appropriate.

Dated: October 26, 1984.

Respectfully submitted,

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CONSENT TO APPLICATION:

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